

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 ST. PAUL FIRE AND MARINE
10 INSURANCE COMPANY,

11 Plaintiff,

12 v.

13 ONVIA, INC., *et al.*,

14 Defendants.
15

Case No. C06-1056RSL

ORDER GRANTING MOTION FOR
RULE 54(b) CERTIFICATION

16 This matter comes before the Court on a motion filed by defendant Responsive
17 Management Systems (“RMS”) for a Rule 54(b) certification of this Court’s February 16, 2007
18 Order Regarding Cross Motions for Summary Judgment (Dkt. #57, the “Order”). The parties
19 subsequently requested that the Court delay ruling on this motion until after the Court ruled on
20 plaintiff’s motion for summary judgment on RMS’s remaining claims for procedural bad faith
21 and a related violation of the Washington Consumer Protection Act (the “remaining claims”).
22 The Court has done so, and has certified to the Washington State Supreme Court the issue of
23 whether a party may pursue a claim for procedural bad faith even though a court has ruled that
24 the insurer did not owe the insured a duty to defend, settle, or indemnify. This issue is now ripe
25 for consideration.

26 The Supreme Court has outlined the steps a district court must follow in making
27

1 determinations under Rule 54(b). “A district court must first determine that it is dealing with a
2 ‘final judgment.’ It must be a . . . decision upon a cognizable claim for relief, and it must be . . .
3 ‘an ultimate disposition of an individual claim entered in the course of a multiple claims
4 action.’” Curtiss-Wright Corp. v. General Electric Co., 446 U.S. 1, 7 (1980) (quoting Sears,
5 Roebuck & Co. v. Mackey, 351 U.S. 427, 436 (1956)). In this case, the Court has made a final
6 judgment regarding plaintiff’s claim for a declaratory judgment and RMS’s claims for
7 contractual and bad faith breach of the duties to defend, indemnify, and settle.

8 After the district court has found finality, it must determine, in its sound judicial
9 discretion, if there is any just reason for delay. Curtiss-Wright, 446 U.S. at 8. The district court
10 must “take into account judicial administrative interests as well as the equities involved.” Id.
11 This inquiry is necessary in order to “preserve the historic federal policy against piecemeal
12 appeals.” Sears, 351 U.S. at 438. District courts should consider factors including “whether the
13 claims under review were separable from the others remaining to be adjudicated and whether the
14 nature of the claims already determined was such that no appellate court would have to decide
15 the same issues more than once.” Curtiss-Wright, 446 U.S. at 8. In the Ninth Circuit, Rule
16 54(b) certification is proper if it will lead to an “expeditious decision” of the case. Texaco, Inc.
17 v. Ponsoldt, 939 F.2d 794, 797 (9th Cir. 1991) (quoting Sheehan v. Atlanta Int’l Ins. Co., 812
18 F.2d 465, 468 (9th Cir. 1987) (“The Rule 54(b) claims do not have to be separate from and
19 independent of the remaining claims”)).

20 After balancing the competing factors, this Court determines that there is no just reason
21 for delay and the entry of a final judgment will advance the interests of sound judicial
22 administration and justice to the litigants. The remaining claims are limited. Resolution of the
23 issue certified to the Washington State Supreme Court could take in excess of a year. This case
24 will be stayed in the interim. Meanwhile, there is no reason to delay the appeal of the other
25 issues resolved in the Order, which are separable from the remaining issues. The nature of the
26 issues are such that no appellate court would have to consider the same issues twice. Plaintiff
27

1 stated that if the Court denied its motion for summary judgment on the remaining claims, it
2 would not contest the entry of a Rule 54(b) judgment which “would streamline the proceedings
3 and narrow the ultimate scope of the issues in this court.” St. Paul’s Response at p. 2. Entry of
4 judgment under these circumstances would also accomplish those goals.

5 Finally, the Ninth Circuit’s review of the Order will not be mooted by any subsequent
6 decision on the remaining claims by this Court or the Washington State Supreme Court. In
7 contrast, if the Ninth Circuit determined that this Court erred, it could render the issue certified
8 to the Washington State Supreme Court moot, thus saving judicial resources.

9 For all of the foregoing reasons, the Court GRANTS RMS’s motion for entry of final
10 judgment (Dkt. #72) on its Order (Dkt. #57) on cross motions for partial summary judgment.
11 The Clerk of Court is directed to issue a judgment consistent with the order on cross motions for
12 partial summary judgment.
13

14 DATED this 30th day of May, 2007.
15

16
17 

18 Robert S. Lasnik
19 United States District Judge
20
21
22
23
24
25
26
27